

1984 WL 249974 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 31, 1984

\*1 Mr. Richard J. Campbell  
Materials Management Office  
Division of General Services  
800 Dutch Square Boulevard  
Suite 150  
Columbia, South Carolina 29210

Dear Richard:

You have asked our advice as to the following situation: Is the expenditure of local funds by the State's Technical Education Colleges governed by the South Carolina Consolidated Procurement Code?

[South Carolina Code § 11-35-40\(2\)](#) (1976 as Amended) provides in part as follows:

(2) Application to State Procurement. This code shall apply to every expenditure of funds by this State under contract acting through a governmental body as herein defined irrespective of the source of the funds, including federal assistance monies, except as specified in [§ 11-35-40\(3\)](#) (Compliance with Federal requirements) and except as provided in Article 19 (Intergovernmental Relations) . . . (Emphasis added.)

The language of [§ 11-35-40\(2\)](#) is clear and unambiguous. The source of the funds (except for specified exceptions none of which exceptions include local funds) is immaterial. The operation of the Procurement Code is triggered when there is an expenditure under contract by a governmental body regardless of the source of the funds.

Moreover, this concept is reiterated in [S.C. Code § 11-35-510](#) (1976 as Amended) which provides in part as follows:

All rights, powers, duties and authority relating to the procurement of supplies, services, and information technology and to the management, control, warehousing, sale and disposal of supplies, construction, information technology, and services now vested in or exercised by any state governmental body under the provisions of law relating hereto, and regardless of source of funding, are hereby vested in the Division of General Services . . . (emphasis added)

Governmental body is defined in [S.C. Code § 11-35-310\(18\)](#).

'Governmental body' means any state government department, commission, council, board, bureau, committee, institution, college, university, technical school, legislative body, agency, government corporation, or other establishment or official of the executive, judicial or legislative branches of this State. Governmental body excludes the General Assembly and all local political subdivisions such as counties, municipalities, school districts or public service or special purpose districts. (Emphasis added)

Clearly, technical schools fall within the definition of a governmental body.

The fact that a technical school is utilizing county or city funds does not exempt that technical school, in any way, from compliance with the Procurement Code.

Therefore, a South Carolina Technical Education College must comply with the South Carolina Consolidated Procurement Code even if the technical school is expending funds received exclusively from local political subdivisions; however, we note that the Procurement Code does provide exemptions for the purchase of various items and services under § 11-35-710, et seq. See also § 11-35-1510. We express no opinion as to which, if any, of these exemptions may be utilized by these schools.

\*2 If you have any further inquiry with respect to this matter or if I can be of further assistance, please do not hesitate to let me know.

Sincerely,

Charles W. Gambrell, Jr.  
Assistant Attorney General

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